

## HUMAN SERVICES BOARD

## DISCUSSION

At a telephone status conference held on September 8, 2008 the hearing officer advised the petitioner that she should appeal or otherwise seek to overturn the ruling of the Family Court, and he continued the matter for a month to

allow her to pursue her case in Family Court. He also advised the petitioner to try to obtain an attorney.

At a duly scheduled and noticed telephone status conference on October 7, 2008 the petitioner was unavailable at both her home and cell phone numbers (her cell phone had actually been disconnected).

On October 10, 2008 the Board, pursuant to its Rule No. 1000.3Q, sent the petitioner a notice directing her to contact the Board within seven days if she wished to continue with her appeal. When the petitioner did not respond, the Board's Clerk issued an Order, dated October 20, 2008, dismissing the appeal for the petitioner's failure to attend the status conference. All the Board's orders and notices were sent to the mailing address that the petitioner had provided when she filed her appeal. None were returned to the Board.

The Board heard nothing more from the petitioner until March 18, 2009, when the petitioner sent an email asking that "a new hearing be scheduled re: my substantiation". The hearing officer treated this request as a Motion to Reopen the Board's dismissal, and a telephone status conference was scheduled for April 14, 2009.

The petitioner did not answer her phone when the hearing officer called on April 14, but later that day she called the Board to report that although she had gotten a voice message from the hearing officer, her phone hadn't rung when he had called. The hearing office rescheduled a telephone status conference on May 15, 2009.

At the status conference held on May 15, 2009 the petitioner did not allege any change in the status of her case since the status conference that had been held in September 2008. She reported that she had moved in the fall of 2008 (and had had problems with her mail), but that she had taken no action in her case in Family Court. She did not allege that the Family Court had taken any action or issued any rulings subsequent to the Order cited by the Department in its September 2008 filing (*supra*).

Fair Hearing Rule No. 1000.4K allows for the reopening of any Board ruling only if "good cause" is shown. The rule also requires that such requests be filed within 30 days. Based on the petitioner's representations, there does not appear to be any good cause for the Board to reopen this matter, and the petitioner's failure to contact the Board for over six months is inexplicable. Moreover, even if the matter were reopened, it appears clear that the Board would

still be bound (as the hearing officer advised the petitioner in September 2008) as a matter of collateral estoppel to adopt the findings of the Family Court in this matter. Therefore, there is almost no likelihood the petitioner could succeed on the merits of her appeal, even if the Board were to hear it.

ORDER

The petitioner's request to reopen this matter is denied.

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